

September 2003

Update: Child Protective Proceedings Benchbook

CHAPTER 21

Appeals

21. 6 Delayed Appeals

Insert the following text on page 21-3 at the end of Section 21.6:

Effective September 1, 2003, the Michigan Supreme Court amended MCR 7.205(F) by adding subsection 5:

“(5) The time limit for late appeals from orders terminating parental rights is 63 days, as provided by MCR 3.993(C)(2).”*

*Effective May 1, 2003, Subchapter 5.900 of the Michigan Court Rules became Subchapter 3.900. Former MCR 5.993(C)(1) was redesignated MCR 3.993(C)(2).

CHAPTER 21

Appeals

21.10 Appeals to the Supreme Court

Insert the following new section on page 21-5 before Section 21.10:

An application for leave to appeal to the Supreme Court may be taken from a case pending in the Court of Appeals or after a decision by the Court of Appeals. MCR 7.301(A)(2). If the application is filed before the Court of Appeals' decision, the application must be filed within 42 days of one of the following:

“(a) after a claim of appeal is filed in the Court of Appeals;

“(b) after an application for leave to appeal is filed in the Court of Appeals; or

“(c) after entry of an order by the Court of Appeals granting an application for leave to appeal.” MCR 7.302(C)(1)(a)–(c).

If the case is not pending before the Court of Appeals, then the application for leave to appeal is governed by MCR 7.302(C)(2)–(4). MCR 7.302(C)(2) provides:

“(2) Other Appeals. Except as provided in subrule (C)(4), in other appeals the application must be filed within 42 days in civil cases . . . ,

(a) after the Court of Appeals clerk mails notice of an order entered by the Court of Appeals;

(b) after the filing of the opinion appealed from; or

(c) after the Court of Appeals clerk mails notice of an order denying a timely filed motion for rehearing.

“However, the time limit is 28 days where the appeal is from an order terminating parental rights.”

MCR 7.302(C)(4) provides that if the Court of Appeals remands the case to a lower court for further proceedings, the application for leave may be filed within 42 days, in civil cases, after one of the following:

“(a) the Court of Appeals decision ordering the remand, or

“(b) the Court of Appeals decision disposing of the case following the remand procedure, in which case an application may be made on all issues raised in the Court of Appeals, including those related to the remand question.”

Late applications will not be accepted. MCR 7.302(C)(3).